

# ENROLLMENT(S)

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# COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

### D.C. LAW 12-187

#### "Uniform Prudent Investor Act of 1998"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 12-154, on first and second readings, July 7, 1998 and September 22, 1998, respectively. Following the signature of the Mayor on October 2, 1998, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-458 and published in the November 6, 1998, edition of the D.C. Register (Vol. 45 page 7802) and transmitted to Congress on January 25, 1999 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 12-187, effective March 26, 1999.



LINDA W CROPP  
Chairman of the Council

#### Dates Counted During the 30-day Congressional Review Period:

Feb. 2,3,4,8,9,10,11,12,22,23,24,25

Mar. 1,2,3,4,5,8,9,10,11,15,16,17,18,19,22,23,24,25

AN ACT  
D.C. ACT 12-458

*Codification  
District of  
Columbia  
Code  
1999 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 2, 1998

To adopt the Uniform Prudent Investor Act in the District of Columbia, consistent with the recommendations of the National Conference of Commissioners on Uniform State Laws, that establishes a prudent investor default rule.

New Chapter  
47,  
Title 28

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform Prudent Investor Act of 1998".

Sec. 2. Prudent investor rule.

(a) Except as provided in subsection (b) of this section, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule as set forth in sections 3 through 10.

New Section  
28-4701  
Note, Section  
32-401

(b) The prudent investor rule is a default rule that may be expanded, restricted, eliminated, or otherwise altered by provisions of the trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on provisions of the trust.

Sec. 3. Standard of care; portfolio strategy; risk and return objectives.

(a) A trustee shall invest and manage trust assets as a prudent investor would by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

New Section  
28-4702

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among the circumstances relevant to the trust or its beneficiaries that a trustee shall consider in investing and managing the trust assets are the following:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;

- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (5) The expected total return from income and the appreciation of capital;
- (6) Other resources of the beneficiaries;
- (7) Needs for liquidity, for regularity of income, and for preservation or appreciation of capital; and
- (8) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall take reasonable steps to verify facts relevant to the investment and management of trust assets.

(e) Subject to the standards of this act, a trustee may invest in any kind of property or type of investment.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

**Sec. 4. Diversification.**

**New Section  
28-4703**

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

**Sec. 5. Duties at inception of trusteeship.**

**New Section  
28-4704**

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this act.

**Sec. 6. Loyalty.**

**New Section  
28-4705**

A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

**Sec. 7. Impartiality.**

**New Section  
28-4706**

If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

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**Sec. 8. Investment costs.**

New Section  
28-4707

In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

**Sec. 9. Reviewing compliance.**

New Section  
28-4708

The prudent investor rule expresses a standard of conduct, not a particular outcome. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action.

**Sec. 10. Delegation of investment and management functions.**

New Section  
28-4709

(a) A trustee may delegate to an agent investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation consistent with the purposes and terms of the trust; and
- (3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of subsection (a) of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of a trust function from the trustee of a trust that is subject to the laws of the District of Columbia, an agent submits to the jurisdiction of the courts of the District of Columbia.

**Sec. 11. Language invoking standard of act.**

New Section  
28-4710

The following terms or comparable language in a trust instrument, unless otherwise limited or modified by the instrument, authorizes any investment or strategy permitted under this act: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor

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rule".

**Sec. 12. Uniformity of application and construction.**

**New Section  
28-4711**

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among the District of Columbia and states enacting it.

**Sec. 13. Application to existing relationships.**

**New Section  
28-4712**

This act applies to trusts existing on and created after its effective date. As applied to trusts existing on its effective date, this act governs only decisions or actions occurring after that date.

**Sec. 14. Fiscal impact statement.**

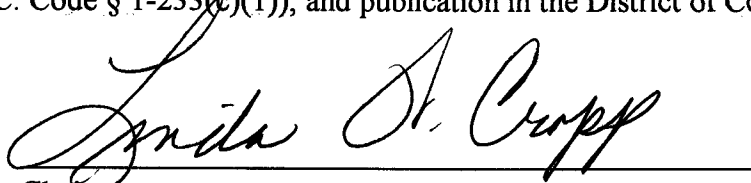
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

**Sec. 15. Effective date.**

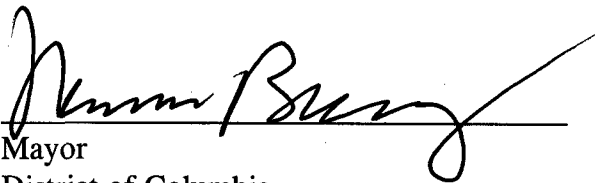
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in

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section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: October 2, 1998



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

RECORD OF OFFICIAL COUNCIL VOTE

B12-154

Docket No.

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE  
RECORDED VOTE ON REQUEST

ADOPTED FIRST READING, 7-7-98

APPROVED

ALL PRESENT

ABSENT

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

*Quigley*  
Secretary to the Council

*September 24, 1998*  
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE  
RECORDED VOTE ON REQUEST

ADOPTED FINAL READING, 9-22-98

APPROVED

MASON

ABSENT

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

*Quigley*  
Secretary to the Council

*September 24, 1998*  
Date

| | ITEM ON CONSENT CALENDAR

| | ACTION & DATE

| | VOICE VOTE  
RECORDED VOTE ON REQUEST

ABSENT

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date